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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Ricardo AVALOS,** Defendant	Magistrate Docket No. '08 MJ 0977 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **March 28, 2008** within the Southern District of California, defendant, **Ricardo AVALOS,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **1st** DAY OF **APRIL 2008.**

Anthony J. Battaglia
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Ricardo AVALOS

PROBABLE CAUSE STATEMENT

On March 28, 2008, at approximately 12:30 a.m., Border Patrol Agent J. Sanchez was performing line watch duties in the Otay Mountains within the Chula Vista Station Area of Responsibility. Agent Sanchez was alerted by San Diego Sector Communications, via Department of Homeland Security (DHS) service radio, of a seismic intrusion device activation in an area known to Border Patrol Agents as the "76 Firebreak." This area is located approximately four miles east of the Otay Mesa, California Port of Entry and approximately three miles north of the United States/Mexico International Boundary.

After arriving in the area, Agent Sanchez encountered four individuals. Agent Sanchez identified himself as a United States Border Patrol Agent and questioned each individual as to their citizenship and nationality. Each individual responded, "Mexico," including one later identified as the defendant **Ricardo AVALOS**. Agent Sanchez then asked each individual if they had any immigration documents that would allow them to be or remain in the United States legally. Each individual responded, "No." At approximately 1:00 a.m., Agent Sanchez placed the four individuals, including the defendant, under arrest and had them transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **March 20, 2008** through **Nogales, Arizona**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on March 29, 2008 at 9:00 a.m.

[signature]
Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **1** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **March 27, 2008**, in violation of Title **8**, United States Code, Section **1326**.

[signature]
Anthony J. Battaglia
United States Magistrate Judge

Date/Time 3/29/08 9:40am